

**IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN
DISTRICT OF PENNSYLVANIA
CIVIL ACTION- LAW**

ANNA JOHNSTON

v.

**THE UNITED STATES OF
AMERICA**

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No. 2:21-cv-2908

PLAINTIFFS' COMPLAINT

Plaintiff, Anna Johnston ("Plaintiff") by and through attorney M. Gerard Bradley of Brooks, Bradley & Doyle, hereby present this Civil Action Complaint and, in support thereof, aver as follows:

1. Plaintiff, Anna Johnston is an adult individual who resides at 604 S. Washington Square in Philadelphia, Pennsylvania.
2. Defendant, the United States of America is the owner of the property designated as Washington Square Park, which is on Walnut Street between 6th and 7th Streets in Philadelphia, Pennsylvania.
3. The National Park Service of the United States of America ("National Park Service") is a government entity and agency of the Federal Government of the United States of America.
4. At all times pertinent hereto Defendant managed, operated, maintained and was responsible for the safety of Washington Square Park,

which is located on Walnut street between 6th and 7th streets in Philadelphia, Pennsylvania.

JURISDICTION AND VENUE

5. This Court has jurisdiction over the current action under 28 U.S. Code §1346 (b)(1) as Plaintiff suffered personal injury caused by the negligent or wrongful act or omission of an employee or employees of the government while acting within the scope of his or her office of employment.

6. This Court has venue over the current action under 28 U.S. Code §1391 (b)(2) as this District is one in which a substantial part of events or omissions giving rise to the claim occurred and where a substantial portion of the property that is the subject of the suit is located.

7. Prior to this suit, Plaintiff filed an administrative claim using standard form 95 prescribed by the Department of Justice. Defendants have, to date, failed to pay for this claim and the claim has been denied.

FACTS

8. Prior to December 26, 2018, Defendant had caused metal barriers to be placed in and around Washington Square Park, which constituted a hazard, as described in further detail below.

9. On December 26, 2018, Plaintiff Anna Johnston was walking in Washington Square Park when she fell over a gray metal barrier that had been placed so as to extend out from the grass area onto the gray flagstone walkway.

10. At all times pertinent hereto, Plaintiff was an invitee on the property in question.

COUNT I

11. Plaintiff incorporates by reference the averments of paragraphs 1 through 10 above as if fully set forth herein at length.

12. The aforementioned metal barrier constituted an unreasonable hazard to Plaintiff and others because:

a) the placement of the barrier was improper, as it extended out onto the area where pedestrians such as Plaintiff would be expected to walk but where such pedestrians would not expect a tripping hazard;

b) the area where the barrier extended onto the walkway was not marked and was hidden by being the same color as the walkway;

c) the placement of the barrier was inconsistent with the placement of other barriers in the area, which were properly placed and not hazardous to pedestrians; and

d) there were no warnings of a tripping hazard in the area of the barrier.

13. The aforementioned metal barrier had been negligently placed by an employee or employees of Defendant.

14. The negligence and carelessness of Defendant's employees consisted of the following:

a) placing of a barrier in improper manner so that it extended out onto the area where pedestrians such as Plaintiff would be expected to walk but where such pedestrians would not expect a tripping hazard;

b) placing a gray barrier so that it extended from the grass out onto the gray flagstone, both creating and concealing a tripping hazard;

c) failing to mark the area where the barrier extended onto the walkway;

d) failing to mark the barrier to reduce the likelihood that a pedestrian would trip over it;

e) failing to warn pedestrians such as Plaintiff that the barrier extended onto the walkway and constituted a tripping hazard; and

f) failing to place the barrier in a consistent manner with the placement of other non-hazardous barriers in the area.

15. As a direct and proximate result of the negligence and carelessness of Defendant's employees, Plaintiff fell violently upon the stone walkway and suffered serious injury.

16. As a direct and proximate result of the negligence and carelessness of Defendant's employees, Plaintiff suffered injury, including, but not necessarily limited to Posttraumatic Right Intertrochanteric Fracture, requiring an open reduction and internal fixation, posttraumatic complications of hypotension and electrolyte imbalance, and injury to her general body and nervous system, all or some of which may be permanent.

17. As a direct and proximate result of the negligence and carelessness of Defendant as described above, Plaintiff experienced and continues to experience pain and suffering, limitation, discomfort, anxiety, and a diminution of life's enjoyment and will continue to do so in the future.

18. As a direct and proximate result of the negligence and carelessness of Defendant as described above, Plaintiff was caused to undergo and endure medical procedures at her expense, and may require additional treatment at her expense, in the future.

19. As a result of the accident, Plaintiff sustained a leg length discrepancy which has made ambulating very difficult and left her partially disabled.

20. Plaintiff is required to undergo a total hip replacement as a result of the accident, which procedure is scheduled to take place at Jefferson Hospital in Philadelphia in June of 2021.

WHEREFORE, Plaintiff demands that judgment awarding damages be entered in favor of Plaintiff and against Defendant, plus costs and any delay damages.

BY: 

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JURY TRIAL DEMAND

Plaintiff hereby demands a jury of twelve members in the above-captioned matter.

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